

MELINDA HAAG  
United States Attorney  
DONNA L. CALVERT  
Regional Chief Counsel, Region IX  
Social Security Administration  
LYNN M. HARADA, CSBN 267616  
Special Assistant United States Attorney  
160 Spear Street, Suite 800  
San Francisco, California 94105  
Telephone: (415) 977-8977  
Facsimile: (415) 744-0134  
E-Mail: Lynn.Harada@ssa.gov  
Attorneys for Defendant

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

JAMES SWAIN,	)	Case No.: 4:13-CV-00440-SBA
Plaintiff,	)	STIPULATION AND <del>PROPOSED</del> ORDER
vs.	)	APPROVING SETTLEMENT OF
CAROLYN W. COLVIN,	)	ATTORNEY FEES PURSUANT TO THE
Acting Commissioner of Social Security,	)	EQUAL ACCESS TO JUSTICE ACT, 28
Defendant.	)	U.S.C. § 2412(d), AND COSTS PURSUANT
	)	TO 28 U.S.C. § 1920

IT IS HEREBY STIPULATED by and between the parties, through their undersigned counsel, subject to the Court's approval, that Plaintiff be awarded attorney fees in the amount of SIX THOUSAND, NINE-HUNDRED DOLLARS AND ZERO CENTS (\$6,900.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO DOLLARS (\$0.00) under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's

Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Harvey P. Sackett, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees and expenses, and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel, including Sackett and Associates, may have relating to EAJA attorney fees and expenses in connection with this action.

This award is without prejudice to the rights of Plaintiff's counsel and/or Sackett and Associates to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: June 6, 2014

By: /s/ Lynn M. Harada for Harvey P. Sackett\*  
(\*as authorized by email on 6/6/14)  
HARVEY P. SACKETT  
Attorney for Plaintiff

MELINDA HAAG  
United States Attorney  
DONNA L. CALVERT  
Regional Chief Counsel, Region IX  
Social Security Administration

Dated: June 6, 2014

By: /s/ Lynn M. Harada  
LYNN M. HARADA  
Special Assistant United States Attorney  
Attorneys for Defendant

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED that Plaintiff shall be awarded attorney fees in the amount of SIX THOUSAND, NINE-HUNDRED DOLLARS AND ZERO CENTS (\$6,900.00), as authorized by 28 U.S.C. § 2412(d), subject to the terms of the above-referenced Stipulation.

Dated: 6/11/2014



THE HONORABLE SAUNDRA BROWN ARMSTRONG  
United States District Judge

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